

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5104 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
1 to 5 No

KOLI UKKA BHANU

Versus

DISTRICT MAGISTRATE

Appearance:

MR SATISH R PATEL for Petitioner

Mr. Nigam Shukla, learned Asst.G.P.for the respondednts.

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 06/11/96

ORAL JUDGMENT :

1. This Special Civil Application is directed against the order dated 25-4-96 passed by the District Magistrate,Junagadh detaining the petitioner under the provisions of the Gujarat Prevention of Anti Social Activities Act,1985 (hereinafter referred to as 'the Act'). The detention order was executed on 13-5-96 and since then the petitioner is under detention lodged at

Surat Jail, Surat.

2. This Special Civil Application was filed in this Court on 15-7-96 and on 16-7-96 Rule returnable on 5-8-96 was issued. So far neither any reply has been filed on behalf of the respondents nor any affidavit of the detaining authority has been filed.

3. Grounds enclosed with the detention order show that 5 criminal cases under the Bombay Prohibition Act were registered against the petitioner. Besides these, the detaining authority has also taken into consideration statements made by 6 witnesses against the petitioner's anti social activities. The detaining authority has found that the petitioner was engaged in bootlegging and anti social activities and has been detained as a bootlegger.

4. The detention order has been challenged on more than one grounds, but the learned counsel for the petitioner has stressed that no case of breach of public order is made out.

5. In view of the reasonings given in the judgment dated 4-10-96 in Special Civil Application No.3879/96 it is clear that the allegations and materials relied upon by the detaining authority against the petitioner do not constitute a case of breach of law and order. The detention order, therefore, deserves to be set aside on this ground alone.

6. Accordingly the Special Civil Application is allowed and the impugned detention order dated 25-4-96 passed by the District Magistrate, Junagadh is hereby quashed and set aside and the petitioner's detention is declared to be illegal. The respondents are directed to release the petitioner and set him at liberty forthwith, if not required in any other case. Rule is made absolute.